

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

April 12, 2017
9:00 a.m.

Members present: Chairman Gilbert, Councilors: Beaurivage, Boisvert, Butler, Clark, Gegas, Henderson, Hinds, Joubert, and Rawnsley

Members absent: Councilors: Hardy, O'Brien, and Tremblay

Also present were Carolyn Guerdet, Council Clerk and Paula Scott, Appeals Clerk

Chairman Gilbert called the meeting to order at 9:02 a.m.

1. Approval of Minutes of the March 8, 2017 Meeting

- ***Councilor Clark made a motion to accept the March 8, 2017 minutes, second by Councilor Boisvert. Motion passed unanimously with Councilors Butler and Hinds abstaining.***

2. Status of Appeals

Paula Scott presented an update on the following appeals:

I. New Appeals

Docket No. 17-04 WC – City of Rochester, NH Appeal

Subject: 02/14/17 Notice of Violation for PWS#2001010

Hearing Officer: Not assigned

Status: March 13, 2017 received Notice of Appeal. 3/20/17 issued receipt of Appeal letter.

Please note that the Council may have to determine whether the Appeal is within the Council's jurisdiction at their April 12, 2017 meeting. It also appears that the Appeal is insufficient. If the Council determines that the Appeal is within its jurisdiction, it may be necessary for the Appeals Clerk to send a Notice of Insufficient Appeal, as required under Env-WC 203.03, and any insufficiencies corrected by the petitioner, before the Council decides whether to accept or deny the Appeal.

Discussion of this Appeal was continued until after discussion with Counsel later in the meeting.

II. Decision and Orders that need to be written finalized and issued.

Docket No. 16-23 WC – City of Rochester, NH Appeal

Subject: 12/19/16 Notice of Violation for PWS#2001010

Hearing Officer: Not assigned

Status: December 23, 2016 received Notice of Appeal. January 4, 2017 issued receipt of Appeal letter. Council to determine whether the Appeal is within the Council's jurisdiction. 1/11/17

Council voted to table Appeal for their attorney's opinion on jurisdiction. February 8, 2017 Council voted to decline to accept the Appeal as it is not within their jurisdiction. 2/27/17 issued Decision and Order on Notice of Appeal. March 8, 2017 received Motion for Rehearing.

III. Hearings or PHCs Pending

Docket No. 16-10 WC (PNA) – Town of Lincoln Appeal

Re: 5/20/16 Administrative Order No. 16-012 WD

Hearing Officer: David Conley assigned on 7/18/16

Status: June 17, 2016 received Notice of Appeal. 6/20/16 issued receipt of Appeal letter. Council accepted the appeal at their July 13, 2016 meeting. 7/13/16 issued Appeal accepted letter. 7/29/16 received Appearance from Attorney General. December 14, 2016 issued Notice of Pre-Hearing Conference scheduled for January 23, 2017 at 11:30 a.m. PHC was held on 1/23/17 with a 2nd PHC scheduled for April 10, 2017 at 9 a.m. April 10, 2017 issued 2nd Pre-hearing Order with deadlines for filing.

Docket No. 16-16 WC Suzanne Fournier, et al. Appeal

Re: 08/22/16 approval of Alteration of Terrain Permit No. AoT-1149 issued to the Town of Milford

Hearing Officer: David Conley assigned on 11/17/16

Recused: Councilor Henderson

Status: September 8, 2016 received Notice of Appeal. October 10, 2016 receipt of Appeal letter. Council accepted the Appeal at their November 9, 2016 meeting. November 9, 2016 issued Appeal accepted letter. December 12, 2016 issued Notice of Pre-hearing Conference scheduled for January 23, 2017 at 10:30 a.m. 1/17/17 received Motion to Intervene from the Town of Milford. 1/23/17 PHC was held, Town of Milford's Motion to Intervene was granted and a hearing was scheduled for April 12, 2017 at 9 a.m. February 8, 2017 received Appearance from Atty. Christopher Aslin for DES. 2/15/17 received Town of Milford's Motion to Remand, etc. 2/17/17 received Appellants' Objection to Town of Milford's Motions and also received their Witness and Exhibit list. 2/23/17 received DES' Witness and Exhibit List. March 6, 2017 received State's First Request for Information from Appellants. March 7, 2017 received Appellant's Request for Information from the State. 3/9/17 received State's Motion to Dismiss. 3/13/17 received Objection to State's Motion to Dismiss. 3/20/17 Hearing Officer requested copies of attachments referenced in Notice of Appeal that were not attached. 3/22/17 received attachments (exhibits) referenced in the Notice of Appeal as requested by the Hearing Officer. April 3, 2017 received State's Motion to Continue Hearing. 4/4/17 issued Order granting State's Motion to Dismiss the Appeal. The Appeal is dismissed.

Docket No. 16-19 WC Patricia Rodrigues and John Corduff Appeal

Re: 8/31/16 approval of after-the-fact Alteration of Terrain Permit No. AoT-1154 issued to Gretchen Fowler, Trustee of the George R. Graves Revocable Trust

Hearing Officer: David Conley assigned on 1/17/17

Status: October 3, 2016 received Notice of Appeal. 10/10/16 issued receipt of Appeal letter. Appeal initially appeared to be untimely. Based on information subsequently received, Appeal may be timely. If the Council determines that the Appeal was timely filed, it is likely that an Insufficient Appeal letter will have to be sent. A motion was made and passed to consider the Appeal timely filed on November 9, 2016. 11/9/16 issued insufficient Appeal letter. December 9, 2016 received revised Appeal. 12/21/16 issued receipt of revised Appeal letter. Council to accept or decline Appeal at January 11, 2017 meeting. Council accepted the Appeal at the January 11, 2017 meeting. 1/11/17 issued Appeal accepted letter. 1/30/17 issued Notice of Pre-Hearing Conference scheduled for February 22, 2017 at 10 a.m. February 17, 2017 received Appearance from Atty. Allen Brooks for the Department. 2/21/17 received email request from Appellant to postpone PHC due to medical event. 2/21/17 issued Ruling granting postponement. March 21, 2017 issued Notice of Pre-hearing Conference scheduled for April 10, 2017 at 10 a.m. April 10, 2017 issued Pre-hearing Order scheduling hearing for July 12, 2017.

Docket No. 17-01 WC (PNA) – Christopher and Rebecca Crowe Appeal

Subject: 12/21/16 Administrative Order No. 16-033 WD

Hearing Officer: David Conley assigned on 3/15/17

Status: January 19, 2017 received Notice of Appeal. 1/20/17 issued Insufficient Appeal letter.

February 17, 2017 received Revised Notice of Appeal. March 1, 2017 issued Receipt of Revised Appeal letter. Council to accept or decline appeal at their March 8, 2017 meeting. Council accepted Appeal at their March 8, 2017 meeting and issued Appeal accepted letter. April 6, 2017 issued Notice of Pre-hearing Conference scheduled for May 2, 2017 at 9 a.m.

Docket No. 17-03 WC – Town of Hampton, NH Appeal

Subject: 1/13/17 Administrative Order No. 17-001 WD

Hearing Officer: David Conley assigned on 3/15/17

Status: February 10, 2017 received Notice of Appeal. 2/15/17 issued Receipt of Appeal letter.

Council to accept or decline appeal at their March 8, 2017 meeting. Council accepted Appeal at their March 8, 2017 meeting and issued Appeal accepted letter. April 6, 2017 issued Notice of Pre-hearing Conference scheduled for May 2, 2017 at 10 a.m.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal**3. New Business****a. Legislative Update**

Director Forbes distributed the updated 2017 Session Bill Tracking Matrix. He noted crossover has occurred and now there are hearings being held. Councilors raised questions and discussion was held.

As of the first week of April the drought has been significantly reduced but there are areas still considered in a drought as groundwater is still low. The Drought Management Team met on Monday and the long term forecast is still dry for New England. Lake levels are up and good.

b. List of possible upcoming presentations:

Legal discussion regarding hearings also regarding water vs. wetlands jurisdiction

What are the issues to be dealt with in the next 5 years?

Someone from the AG give a basic training on the Council's role

Is there a joint basis that wetlands and water can work on?

Update/status of the Drinking Water Ground Water Trust Fund/Exxon court case; what are some of the plans going forward?

Update on the drought (May)

TMDLs

Infrastructure – status of planning for drinking water, wastewater, and storm water

➤ ***Councilor Butler made a motion to go into executive session with Counsel at 9:26 a.m., second by Councilor Hinds. Motion passed unanimously.***

➤ ***Councilor Beaurivage made a motion to return to the regular meeting at 10:10 a.m., second by Councilor Boisvert. Motion passed unanimously.***

Meeting continued:

Docket No. 17-04 WC – City of Rochester, NH Appeal

➤ ***Councilor Gegas made a motion to defer action on the Motion for Rehearing and the new Appeal from the City of Rochester pending receipt of advice from Counsel, second by Councilor Butler. Motion passed unanimously.***

c. Lee Ann Atwell – Project Manager Hazardous Waste Remediation Bureau

Lee Ann explained the basics of PFCs, their uses, and what happens as they move through the eco system. She showed where the testing has occurred around Litchfield and the rest of the state. They are now looking into sampling landfills that have groundwater permits. The science is new for many of these chemicals so there is limited history and no surface water standard yet.

4, **Old Business**

5. **Next Meeting**

May 10, 2017 at 9:00 a.m.

6. **Adjournment**

- ***Councilor Boisvert made a motion for adjournment, second by Councilor Butler. Motion passed unanimously.***

Meeting adjourned at 10:41 a.m.